In the Supreme Court of the United States.

No. 228.

A. D. WILLIAMS, *Appellant*,

vs.

COMPTROLLER GENERAL OF SOUTH CAROLINA *et al.*

No. 229.

J. P. SOUTHERN *et al.*, Assignees of the Blue Ridge Railroad Company,

vs.

COMPTROLLER GENERAL OF SOUTH CAROLINA *et al.*

Argument of Leroy F. Youmans, Attorney General of South Carolina, for the Comptroller General.

COLUMBIA, S. C.
PRINTED AT THE PRESBYTERIAN PUBLISHING HOUSE.
1878.

In the Supreme Court of the United States.

No. 228.

AMOS D. WILLIAMS, *Appellant*,

vs.

JOHNSON HAGOOD (substituted for Thomas C. Dunn) Comptroller General of the State of South Carolina, WILLIAM GURNEY as County Treasurer of Charleston County, J. P. SOUTHERN, G. W. WILLIAMS, and J. P. LOW, Assignees in Bankruptcy, of the Blue Ridge Railroad Company.

No. 229.

J. P. SOUTHERN, G. W. WILLIAMS, and J. P. LOW, Assignees of the Blue Ridge Railroad Company, *Appellants*,

vs.

JOHNSON HAGOOD (substituted for Thomas C. Dunn) Comptroller General of the State of South Carolina, J. W. HOLEMAN, as County Treasurer of Oconee County, B. B. DEAN, as County Treasurer of Anderson County.

Argument of Leroy F. Youmans, Attorney General of South Carolina, for the Comptroller General of South Carolina.

The Plaintiffs, holders of revenue bond scrip, issued under Act of the General Assembly of South Carolina of March 2, 1872, claim to enforce the provisions thereof against the State, the Comptroller General, and the County Treasurers. The questions involved depend upon the force and effect of divers decisions of the Courts of that State, adverse to the claims of complainants, upon the jurisdiction of the Circuit Court, upon whether there is equity in the bills of complaint, and upon the construction, validity, and constitutionality of divers acts of the General Assembly printed in the Appendix hereto.

The hearing of these causes was suspended pending certain legislation in the General Assembly of South Carolina. That legislation has been had, yet the appeal is still prosecuted.

In cause No. 228, William Gurney is no longer Treasurer of Charleston County.

In cause No. 229, J. W. Holeman and B. B. Dean are no longer Treasurers of Oconee and Anderson Counties respectively. Can these causes be heard? Do they not abate? Rule 15 of
3 Supreme Court, U. S. McCarahan's case, 9 Wall. 313; Boutwell's case, 17 Wallace, 604.

But if it is decided that these causes can be heard, it is respectfully submitted that an inspection of the Bills of Plaintiffs, Appellants, (No. 228, Record, fol. 1 to 29; No. 229, fol. 1 to 10) shows that they are attempts to obtain a decree against a State, not a party, and that the only remedy is by petition to the General Assembly of the State. And that even if Courts can give a remedy, these Bills are without equity; and Plaintiffs, Appellants, if their causes have merit, must seek redress at law.

4 All the questions involved have been elaborately argued before the law Courts of South Carolina, in cases heard by both the Circuit and Supreme Courts of that State. The State *ex rel.* Shiver *et al.*, *vs.* Comptroller General, 4 So. Ca., 185. Dupre *vs.* County Treasurers, 4 So. Ca., 228, 229, note *a*. The State *ex rel.* Gary, State Auditor, *vs.* Parker, State Treasurer, and County Treasurers, 4 So. Ca., 228, 229, note *a*, 4 So. Ca., 311.

The decisions in those cases were adverse to all the rights claimed here by Appellants, and standing in full force and unreversed, they furnish the most full and entire justification to the
5 Comptroller General of the State, and the County Treasurers, for their action and want of action complained of, and this Court will not disturb them. But had the decisions referred to never been made, had this Court undisputed jurisdiction, with all proper parties before it, and were the whole subject *res integra*, it would seem, on the merits, that the Appellants can have no *locus standi* in a Court either of law or equity. It would be incumbent on Appellants to show, in the first place, in order to sustain themselves at all, that the *express condition* of the Act of *1868*, Sec. 2, that the bonds therein referred to should *not* be used unless three millions of dollars in currency, or so much of that sum as may be
6 necessary, shall be furnished in exchange or upon the security of

these bonds, (as it has never been performed,) is repealed by A. A. 1871, Sec. 6, as there is no pretence of its repeal elsewhere.

But this they cannot show, because the 6th Section of the Act of 1871 is in direct violation of Sec. 29, Art 2, Constitution of So. Ca., 1868. "Every Act or Resolution having the force of law shall relate to but one subject, and that shall be expressed in the title." The uniformly accepted construction of this constitutional provision sustains its mandatory character, and makes the title to control and exclude everything from effect and operation 7
as law, which is incorporated in the body of the Act, but is not within the purpose indicated by the title. The construction must be rigid and precise, to give it the value intended by the framers of the Constitution, and words cannot be interpolated, but effect must be given to the clause as framed in the instrument. Cooley on Con. Lim., 80, 81, 84, 141. Sedgwick on Con. and Stat. Construction, 567. Authorities cited, 4 So. Ca., 216. The Act is entitled "An Act to promote the consolidation of the Greenville and Columbia Railroad Company, and the Blue Ridge Railroad Company." The title expresses the purposes of the Act. 8
It was intended and is a scheme for the consolidation of these two railroad companies; and this Act, like every other Act made under a Constitution, with the provision above recited, is void in so far at least as it is broader than its title.

2. But independent of this constitutional inhibition, an inspection of the provisions of the Act, (notwithstanding the sweeping words of the 6th Section,) taken in connection with what has been done under it, shows that there has been in fact no repeal of the express condition of the Act of 1868, 2d Sec. The 4th Section states the essential condition on which all the 9
other Sections depend: "Consolidation of the Companies." This has never been had, nor any measures taken to that end. The 10th Section provides in terms (while amending, modifying, and repealing, as the case may require, all Acts or parts of Acts inconsistent therewith,) that such amendment, modification, and repeal "*are for the purposes of this Act, but for no other purpose, so as to conform to the true intent and meaning of this Act.*" It reiterates the condition essential to the repeal of any other Act, and confines the Act, by legislative as well as constitutional declaration, to the purpose and intent expressed in the title. 10
The Act of 1870 can stand only as an Act to promote the con-

solidation of the two Railroad Companies: and the privileges therein declared can be enjoyed only when the purposes for which they were promised have been accomplished. For without such a tie to hold them together, each Section of the Act would be an enactment in itself, distinct from each of the others; and there would be ten subjects in one Act. By the 7th Section, the consolidated road is required to endorse the bonds of the two old
11 roads, respectively.

The roads never being consolidated, and there being no consolidated road, of course this endorsement has never been made. No conceivable consideration for the release of this condition of the Act of 1868, and of her securities, was offered to the State, but the benefits proposed by the consolidation: and the consolidation having failed, the release of the condition falls with it. The whole Act does but set out the terms of a contract. The consolidation was the consideration moving from the roads: and with the non-performance of that consideration the contract
12 fell, and the whole Act became a nullity. The new condition precedent to the release, "consolidation," has never been complied with, and so the 6th Section is necessarily inoperative. It was in fact an amended charter, which was never accepted, and so the whole Act falls.

A second fatal objection to the success of Appellants is that the Act of 1872 is in violation of the provisions of the State Constitution, in regard to finance and taxation.

Article IX. of the State Constitution takes the whole department of finance out of the general power to make laws, and
13 strictly prescribes the extent of this power, and the mode of using it.

It most particularly limits and circumscribes the power of the Legislature to contract debt, levy taxes, or bind the State. The Legislature can no more go beyond those powers as marked out to it, than a Court can go beyond its jurisdiction.

"SEC. 3. The General Assembly shall provide for an annual tax sufficient to defray the estimated expenses of the State for each year: and whenever it shall happen that such ordinary expenses of the State for any year shall exceed the income of the State for such year, the General Assembly shall provide for levy-
14 ing a tax for the ensuing year sufficient, with other sources of

income, to pay the deficiency of the preceding year, together with the estimated expenses of the ensuing year."

"SEC. 4. No tax shall be levied except in pursuance of a law, which shall distinctly state the object of the same; to which object such tax shall be applied."

"SEC. 7. For the purpose of defraying extraordinary expenditures, the State may contract public debts; but such debts shall be authorized by law for some single object, to be distinctly specified therein; and no such law shall take effect until it shall have been passed by the vote of two-thirds of the members of each 15
branch of the General Assembly, to be recorded by yeas and nays on the journals of each House, respectively; and every such law shall levy a tax annually sufficient to pay the annual interest of such debt."

"SEC. 10. No scrip, certificate, or other evidence of State indebtedness shall be issued, except for the redemption of stock, bonds, or other evidences of indebtedness previously issued, or for such debts as are expressly authorized in this Constitution."

"SEC. 14. Any debt contracted by the State shall be by loan on State bonds, of amounts not less than fifty dollars each, on 16
interest, payable within twenty years after the final passage of the law authorizing such debt. A correct registry of all such bonds shall be kept by the Treasurer in numerical order, so as always to exhibit the number and amount unpaid, and to whom severally made payable."

This Revenue Bond Scrip does *not* come within these restrictions and comply with these requisitions. It was issued neither "for the redemption of stock, bonds, or other evidences of indebtedness previously issued," nor "for such debts as are expressly authorized in the Constitution." It was never a *bond* created 17
under the limitations of the afore-recited 7th and 14th Sections of Article IX.

The Act of 1868 created no debt. Under the express condition of the Act, the bonds were not to be issued until every dollar of bonds had realized a dollar of money. Even then there would be no "*debt*" of the State, and for the first time the transaction would assume the shape of conditional or contingent liability on the bonds becoming due, which had not happened. The State was at most a guarantor upon express condition in a public 18
Act; and at the passage of the Act of 1872, the only place (as

this condition was unperformed) where these endorsed bonds could lawfully and honestly be, was in the lock-up of the Blue Ridge Railroad Company. Hypothecation of them even would be a fraud, and the party to whom they were hypothecated not a *bona fide* innocent third person without notice.

No debt of the kind contemplated by these provisions of the Constitution ever existed, no debt of any kind ever existed, no contingent liability even ever existed on the part of the State, so
19 far as these bonds are concerned. The Legislature usurped a power which is prohibited, and which the people have expressly reserved to themselves. "The enumeration of rights in this Constitution shall not be construed to impair or deny others retained by the people, and all powers not herein delegated remain with the people." Cons., Art. I., Sect. 41.

A third fatal objection to the success of Appellants is, that these Treasury certificates of indebtedness, styled revenue bond scrip, are bills of credit emitted by a State, and so in violation of Sect. 10, Art. I., of the Constitution of the United States.
20 Chief Justice Marshall says: "Bills of credit signify a paper medium intended to circulate between individuals, and between government and individuals, for the ordinary purposes of society." (Craig *vs.* Missouri, 4 Peters, 437, 490.) Concurred in by a majority of the Court.

Justice McLean, who dissented in this case, delivering the opinion of the majority of the Judges in Briscoe *vs.* The Bank of Kentucky, 11 Peters, 257, says: "The definition, then, which does include all classes of bills of credit emitted by the colonies or States, is (1) a paper medium issued by the sovereign power;
21 (2) containing a pledge of its faith; and (3) designed to circulate as money."

The definition in the former case was enforced rather than impaired by the decision in the latter. It is submitted, that an inspection of the provisions of the Act, and testing them by these decisions, leaves no doubt as to the revenue bond scrip being within this inhibition of the Federal Constitution. Section 4 settles that it was issued by the State in its sovereign power, and contained a pledge of its faith. The intention to create a currency, something to circulate as money, is apparent from the
22 whole scope of the Act. By Section 3, it was to be in a form most usual and convenient to pass from hand to hand, and serve

as paper money, that of the usual bank or Treasury note. By the terms of the Act, it was not only to be based on the credit of a government, but an artificial want was to be created for it in the community, tending to give it currency by its being made receivable in payment of taxes and other dues to the State, except the special tax levied to pay interest on the public debt; and it was not to be extinguished by being delivered in at the Treasury, but to remain with the Treasurer as money, and to be reissued by him in satisfaction of claims against the Treasury. The 23
volume of the contemplated issue, when compared with the commercial transactions of the community on which it was intended to be placed, was such as tended to create a strong motive and interest to keep it in circulation as money, and authority was conferred on those most concerned with its circulation to adapt and adjust the denominational character of its issue to the wants of the community in respect to a circulating medium. It never could have been intended or proposed as a State security for investment, because it bore no interest. Its ready capacity for circulation, its facility in supplying all articles necessary for use 24
or consumption, and its easy convertibility, in fact the whole scope and design, show the intent to do precisely what the Federal Constitution prohibits being done.

This unconstitutionality, of course, voids the scrip for all purposes. Cooley's Cons. Lim., 177, 180, 188; Craig *vs.* Missouri, 4 Peters, 437, 490; Strong *vs.* Daniel, 4 Ind., 348; Astrom *vs.* Hammond, 3 McLean, 107; Fonblanque on Equity, Book I., C. 4, Sect. 4; Bank of U. S. *vs.* Owens, 2 Peters, 527; Smith on Contracts, 18; Holmes *vs.* Johnson, Cowper, 343; Rodman *vs.* Munson, 13 Barbour, 188; Newell *vs.* The People, 7 New 25
York, 1.

This is only a brief *résumé* of the argument urged in the South Carolina Courts in support of the views it is my official duty to maintain. An inspection of the Acts in question, and the provisions of the State Constitution, would suffice, it would seem, to make it apparent that Appellants can take nothing by their appeal to this the supreme tribunal of the country. Whatever weight other considerations than those purely legal might have before the General Assembly, where the rights of the Plaintiffs would rest in grace, and their remedy be by petition, or before 26
the special Court recently established by the General Assembly

to pass upon certain floating indebtedness of, and claims against, the State, they certainly can have no weight before this tribunal.

La Roy F. Youmans
Att'y Gen'l So Ca

APPENDIX.

No. 20. AN ACT TO AUTHORIZE ADDITIONAL AID TO THE BLUE RIDGE RAILROAD COMPANY IN SOUTH CAROLINA.

27 Whereas, the General Assembly of the State of South Carolina, by an Act passed the twenty-first day of December, in the year of our Lord one thousand eight hundred and fifty-four, and entitled, "An Act to authorize aid to the Blue Ridge Railroad Company in South Carolina," provided "that the faith and funds of the State of South Carolina be, and the same are hereby, pledged to secure the punctual payment of any contracts which shall be made for borrowing money by the Blue Ridge Railroad Company in South Carolina, from any person or persons, com-
28 pany or companies, corporation or corporations, to any amount not exceeding one million of dollars, either in the United States or Europe; and when such contracts shall be made by bond or bonds signed by the President of the company, under its seal, and countersigned by the Secretary or Treasurer thereof, it shall be the duty of the Comptroller General to endorse thereon that the faith and funds of the State are pledged to the faithful performance of said contract or contracts, as it respects the punctual payment both of the principal and interest, according to the terms of the said contract or contracts: *Provided*, That certain condi-
29 tions particularly recited in Section seven of said Act be first executed." And the said Blue Ridge Railroad Company in South Carolina secured the said endorsement by a mortgage of all their property in the States of South Carolina, Georgia, North Carolina, and Tennessee, duly executed and recorded: and whereas, the Comptroller General of the State has not endorsed any of the bonds issued by the said Blue Ridge Railroad Company in South Carolina, under the authority of said Act; and whereas, the conditions imposed upon said endorsement by said Section seven, have become impossible and injudicious, while the necessity
30 of the completion of said road has become more urgent in the interest of the State: therefore,

SECTION 1. *Be it enacted* by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, Without reference to the said provisos and conditions, whenever any contract or contracts may be made by the President of the said company, under its seal, and as provided by said Act, and not exceeding one million of dollars, it shall be the duty of the Comptroller General to endorse thereon that the faith and funds of the State are pledged to the faithful performance of the said contract or contracts, as respects the punctual payment, both of the principal 31
and interest, according to the terms of the said contract or contracts: *Provided*, That so much of said issue as may be necessary, not exceeding three hundred thousand dollars, shall be applied to the redemption of the present bonded debt of the said company.

SEC. 2. That the faith and the funds of the State of South Carolina be, and the same are hereby, pledged to secure the punctual payment of any contracts which shall be made by the Blue Ridge Railroad Company in South Carolina, from any person or persons, corporation or corporations, to an additional amount, not exceeding three millions of dollars, either in the 32
United States or Europe; and when such contracts shall be made by bond or bonds, signed by the President of the said company, under its seal, and countersigned by the Secretary or Treasurer thereof, it shall be the duty of the Comptroller General of this State to endorse thereon, that the faith and funds of the State of South Carolina are pledged to the faithful performance of the said contract or contracts, as it respects the punctual payment, both of the principal and interest, according to the terms of said contract or contracts: *Provided*, That the interest made payable thereon shall not exceed seven per cent. per annum, in quarterly 33
or half yearly payments. And that as soon as the Comptroller General shall have made any such endorsement on any such contract, the whole estate, property, and funds in the States of South Carolina, Georgia, North Carolina, and Tennessee, which the said company may then possess, or shall afterwards acquire, shall thenceforth stand pledged and mortgaged to the State, without any farther act or deed on the part of the company, for the faithful and punctual performance on the part of said company, of such contract, in priority and preference of any other debt which 34
the said company may thereafter create or incur: *And further*

provided, That the said bonds or any part thereof shall not be used unless upon the express condition that upon application to the Congress of the United States, or to private capitalists, the amount of three millions of dollars in currency, or so much of that sum as may be necessary, shall be furnished in exchange, or upon the security of said bonds.

SEC. 3. The said company shall have the right to increase the Board of Directors to fifteen members, of which Board the Gov-
35 ernor of the State shall be *ex officio* a member; that there shall be an additional officer, to be known as Vice President, whose duties and salary shall be prescribed by the Board; and that in all future meetings of the stockholders of said company, the Governor of the State is hereby authorized to represent the stock of the State, either in person or by the appointment of proxies.

SEC. 4. The Governor of the State is hereby authorized to advance to the said company twenty thousand dollars from the Treasury of the State, to repair and keep in working condition the said road, if such amount should be necessary, in his opinion.

36 SEC. 5. *Be it further enacted*, That all provisions of the charter of the Blue Ridge Railroad Company, and all Acts or parts of Acts inconsistent with this Act, be and the same are hereby repealed.

In the Senate House, the fifteenth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER, President of the Senate.

FRANKLIN J. MOSES, JR.,

Speaker House of Representatives.

Approved: ROBERT K. SCOTT, Governor.

37 [A. A., *Vol. 14, pp. 25, 26.*

No. 350. AN ACT TO PROMOTE THE CONSOLIDATION OF THE GREENVILLE AND COLUMBIA RAILROAD COMPANY AND THE BLUE RIDGE RAILROAD COMPANY.

SECTION 1. *Be it enacted* by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That
38 the Act entitled "An Act to amend the charter of the Greenville and Columbia Railroad Company," passed by the General Assem-

bly of this State on the 20th day of December, 1853, be, and the same is hereby, reënacted, with the following amendments or alterations:

SEC. 2. That for the purpose of extending, or building, or constructing a railroad from Greenville, all of the provisions of Sections 9, 10, 11, and 12, of an Act entitled "An Act to authorize the formation of the Greenville and Columbia Railroad Company," passed on the 15th day of December, in the year 1845, be, and the same are hereby, reënacted with the following amendments or alterations: 39

SEC. 3. That the Greenville and Columbia Railroad Company is authorized, so far as practicable, to purchase, connect, or unite with any connecting railroad or railroads, and especially to extend railroad communication to Knoxville, Tennessee, and to Asheville, in North Carolina: *Provided*, That if the Greenville and Columbia Railroad Company shall fail to construct and finish the said railroad, including such other railroad or railroads as it may unite with or acquire, to the line between this State and North Carolina and Tennessee, within five years from the final passage of this Act, the right to further construct said railroad to Knoxville and to Asheville shall cease, and the time limited therefor is hereby extended five years from the final passage of this Act: but this limitation shall not impair nor affect any rights, or any railroad or railroads acquired, united with, or constructed, so far as acquired, united with, or constructed, at the end of the time hereby limited: nor shall anything contained in this Act impair or limit the right or privilege to consolidate or unite with any railroad or railroads under any general railroad law or laws. That the said Greenville and Columbia Railroad Company shall have power to construct and build, upon the most practicable route, a branch of their road, from some point on the line of their road, at or east of Anderson Court House, and west of the Saluda River, to Aiken or Hamburg, and there connect with any railroad incorporated under the laws of this State; and also shall have the power to construct and build, upon the most practicable route, a branch of their road from Abbeville Court House to the Savannah River, in the direction of Washington, Georgia: also, that the said Company shall have the power to construct and build, upon the most practicable route, a railroad from Spartanburg Court House to the North Carolina line, in the direction of Asheville or Rutherfordton, North Carolina. 40 41 42

SEC. 4. That, in view of the consolidation of the Greenville and Columbia Railroad Company and the Blue Ridge Railroad Company, the action of the said Blue Ridge Railroad Company in making the bonds authorized under the Act of September 15, 1868, and of the Comptroller General of the State in endorsing the same, and thereby pledging the faith and funds of the State to the payment of said bonds, is hereby ratified and confirmed; and that the making and execution by said Blue Ridge Railroad Company and said other Companies, of the mortgage aforesaid
43 to Henry Clews, Henry Gourdin, and George S. Cameron, to secure the payment of the bonds aforesaid, is also ratified and confirmed; and said mortgage is declared to be a lien prior to that of the State, on all property described in said mortgage, and on the entire line of the road aforesaid, and on all the properties of said several Companies, or which they, or either of them, may hereafter acquire; but nothing in this Act contained shall be construed to divest the State of its lien on the estate and property of said several railroad Companies, or of either of them,
44 for its endorsement of the bonds aforesaid, but said lien is postponed to and declared to be subject and subordinate to that of the mortgage, hereinbefore mentioned, to Henry Clews, Henry Gourdin, and George S. Cameron, Trustees.

SEC. 5. That all statutory or other liens or lien, encumbrances or encumbrance, equities or equity, except the mortgage encumbrances now upon the property, assets, effects, rights, and franchises of said Greenville and Columbia Railroad Company, or any part thereof; and also except the mortgage herein authorized, shall be, and are, or is, hereby, made subsequent to the mort-
45 gage encumbrances now in existence thereon, and subsequent to the one herein authorized, so that the holders of the bonds secured by said mortgages, or either of them, shall have a lien and security as between each other, according to the time said mortgages have been or shall be recorded, and a prior lien to all other liens or encumbrances whatsoever, any law or laws to the contrary notwithstanding.

SEC. 6. The following clause in Section 2 of the Act of September 15, 1868, to authorize additional aid to the Blue Ridge Railroad Company, in South Carolina, viz., "And further pro-
46 vided, That the said bonds, or any part thereof, shall not be used, unless upon the express condition that upon application to the

Congress of the United States, or to private capitalists, the amount of three millions of dollars in currency, or so much of that sum as may be necessary, shall be furnished in exchange, or upon the security of said bonds," is hereby repealed.

SEC. 7. That after the consolidation of the Greenville and Columbia Railroad Company with the Blue Ridge Railroad Company, the bonds now held by the Greenville and Columbia Railroad Company and the Blue Ridge Railroad Company shall be endorsed by the consolidated Company.

SEC. 8. That if said consolidated Company shall fail to pay its interest on its guaranteed debt for two years, it shall be the duty of the Comptroller General of the State, and he shall have the power, to take immediate possession of said road, with all its appurtenances, and lease the same to responsible parties, who shall have control thereof until the General Assembly shall, by law, provide for the settlement of the affairs of said Company, in the interest of all its creditors.

SEC. 9. That the said Greenville and Columbia Railroad Company and the Blue Ridge Railroad Company shall forever continue and be a body corporate, capable of suing and being sued in any Court of competent jurisdiction.

SEC. 10. That all Acts or parts of Acts inconsistent with this Act, or any part thereof, are, for the purposes of this Act, but for no other purpose, hereby amended, modified, or repealed, as the case may require, so as to conform to the true intent and meaning of this Act.

SEC. 11. This Act shall take effect immediately.

Approved, March 6, 1871.

[*A. A., Vol. 14, pp. 590–592.*

No. 65. AN ACT TO RELIEVE THE STATE OF SOUTH CAROLINA OF ALL LIABILITY FOR ITS GUARANTY OF THE BONDS OF THE BLUE RIDGE RAILROAD COMPANY, BY PROVIDING FOR THE SECURING AND DESTRUCTION OF THE SAME.

Whereas the State of South Carolina has, by and in pursuance of the provisions of an Act approved the fifteenth day of September, A. D. 1868, entitled, "An Act to authorize additional aid to the Blue Ridge Railroad Company, in South Carolina,"

endorsed a guaranty of the faith and credit of the State on four millions of dollars of bonds, issued by the said Blue Ridge Railroad Company, comprehending the Blue Ridge Railroad Company, in South Carolina; the Blue Ridge Railroad Company, in Georgia; the Tennessee River Railroad Company, in North Carolina; the Knoxville and Charleston Railroad Company, in Tennessee, and the Pendleton Railroad Company, in South Carolina, for the purpose of aiding the speedy completion of the said
51 railroad, which bonds are liable for the debts of the said railroad companies; and whereas the present condition of the finances of the State, and of said companies, is such as to make the further continuance of said bonds on the market inexpedient and unadvisable, and a serious injury and prejudice to the credit of the State; and whereas the existence of the said four millions of dollars of bonds, so guaranteed, creates a large liability upon the part of the State, which the Treasurer may be required to meet at unforeseen and inopportune times; and whereas the liability of the State, on account of such guaranty, should be faithfully met
52 and discharged; therefore, in order to secure the recovery and destruction of the bonds and coupons of the said company, issued under and in pursuance of the provisions of the aforesaid Act, now pledged in the city of New York and elsewhere, and to relieve the State of all liabilities whatsoever, by reason of its endorsement and guaranty of said bonds:

SECTION 1. *Be it enacted* by the State and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the State Treasurer is hereby directed, with the consent, in writing,
53 of the President of the Blue Ridge Railroad Company, in South Carolina, to require the Financial Agent of the State, in the city of New York, immediately to deliver to the State Treasurer all the bonds of the Blue Ridge Railroad Company, endorsed and guaranteed by the State of South Carolina, which are now in his possession, and held by him as collateral security, for advances made by the said Financial Agent, by the order of the Financial Board, to the Blue Ridge Railroad Company; and upon the delivery of said bonds, the Treasurer is hereby required to cancel the same, in the manner hereinafter directed; and the said Blue
54 Ridge Railroad Company shall thereupon be discharged from all liability to the State on account of such advances.

SEC. 2. That upon the surrender by the said Company to the State Treasury of the balance of the said four millions of dollars of bonds, issued by the said Blue Ridge Railroad Company, and guaranteed by the State, the State Treasurer is hereby authorized and required to deliver to the President of the Blue Ridge Railroad Company, in South Carolina, Treasury certificates of indebtedness (styled Revenue Bond Scrip) to the amount of one million eight hundred thousand dollars, the said certificates to be executed in the manner hereinafter directed; and if the said Company shall not be able to deliver all of said bonds at one time, the Treasurer is authorized and required to deliver to the said President such amount of such Treasury certificates as shall be proportioned to the amount of bonds delivered.

SEC. 3. That, to carry out the purposes of this Act, the State Treasurer is hereby authorized and required to have printed, or engraved on steel, as soon as practicable, Treasury certificates of indebtedness, to be known and designated as Revenue Bond Scrip of the State of South Carolina, in such form, and of such denomination as may be determined on by the State Treasurer and the President of the Blue Ridge Railroad Company, in South Carolina, to the amount of one million eight hundred thousand dollars; which Revenue Bond Scrip shall be signed by the State Treasurer, and shall express that the sum mentioned therein is due by the State of South Carolina to the bearer thereof, and that the same will be received in payment of taxes and all other dues to the State, except special tax levied to pay interest on the public debt.

SEC. 4. That the faith and funds of the State are hereby pledged for the ultimate redemption of said Revenue Bond Scrip, and the County Treasurers are hereby required to receive the same in payment of all taxes levied by the State, except in payment of special tax levied to pay interest on the public debt; and the State Treasurer and all other public officers are hereby required to receive the same in payment of all dues to the State; and, still further to provide for the redemption of said Revenue Bond Scrip, an annual tax of three mills on the dollar, in addition to all other taxes, on the assessed value of all taxable property in the State, is hereby levied, to be collected in the same manner, and at the same time, as may be provided by law for the levy and collection of the regular annual taxes of the State; and

the State Treasurer is hereby required to retire, at the end of each year from their date, one-fourth of the amount of the Treasury Scrip hereby authorized to be issued, until all of it shall be retired, and to apply to such purpose exclusively the taxes hereby required to be levied.

SEC. 5. That if any such Revenue Bond Scrip is received in the Treasury for the payment of taxes, the Treasurer be, and he is hereby authorized to pay out such Revenue Bond Scrip in satisfaction of any claims against the Treasury, except for interest that may be due on the public debt.

SEC. 6. That upon the delivery to the State Treasurer of the said guaranteed bonds of the Blue Ridge Railroad Company, or of any part of them, the Treasurer is hereby required to cause the same to be cancelled and destroyed, in the presence of the President of the Blue Ridge Railroad Company, in South Carolina, and in the presence of a Joint Committee of the Senate and House of Representatives of this State, to be for that purpose appointed.

SEC. 7. That whenever the whole number of the said guaranteed bonds shall have been delivered to the Treasurer and cancelled, as required by the provisions of this Act, the lien of the State of South Carolina upon the estate, property, and funds of the said Blue Ridge Railroad Company, in this State, and of the other associated companies in the States of Georgia, North Carolina, and Tennessee, as secured by the provisions of an Act entitled "An Act to authorize additional aid to the Blue Ridge Railroad Company, in South Carolina," passed on the fifteenth day of September, Anno Domini one thousand eight hundred and sixty-eight, and all other claims or liens which are held by the State against said company or companies, on account of said guaranty, shall, from thenceforth, be forever discharged and released; and should the said company be unable, from any cause, to deliver all of said bonds, such liens shall be discharged and released to an extent which shall be proportional to the amount of such bonds actually delivered.

SEC. 8. That, if the said company shall accept the provisions of this Act, it shall be authorized, if the Board of Directors may desire, to change the corporate name of the company to that of the "Knoxville and South Carolina Railroad Company," and shall have power to extend its railroad, or to construct branches

thereof, to any points or places in this State, with all the powers and privileges with which the said company is now vested by the provisions of its charter; and the said company shall also have power to issue bonds, and to secure the same by a mortgage, to such amount, and in such manner as the Board of Directors may direct. And all sales of stock in the said Blue Ridge Railroad Company, in South Carolina, and its associate companies, formerly held by the State and sold by the Commissioners of the Sinking Fund, be, and they are hereby, confirmed. 63

SEC. 9. That if any person shall forge or counterfeit the Treasury Scrip hereby authorized to be issued, or shall, directly or indirectly, aid or assist in the forging or counterfeiting of such scrip, or shall issue, or in any manner use any such, forged or counterfeited, he shall, on conviction thereof, be fined in the discretion of the Court, and shall be imprisoned in the Penitentiary for a term not exceeding ten years.

IN THE HOUSE OF REPRESENTATIVES.

COLUMBIA, S. C., March 2, 1872. 64

On the question "Shall this Act become a law, the objections of His Excellency the Governor to the contrary notwithstanding?" the yeas and nays were ordered, pursuant to provisions of the Constitution, resulting: Yeas, 84; nays, 18; and ordered to be sent to the Senate. By order:

(Signed) A. O. JONES, C. H. R.

IN THE SENATE, COLUMBIA, S. C., March 2, 1872.

On the question "Shall this Act pass and become a law, the objections of His Excellency the Governor to the contrary notwithstanding?" the yeas and nays were ordered, pursuant to provisions of the Constitution, (Art. III., Sec. 22,) the Act passed, by a *viva voce* vote of: yeas, 22; nays, 6; and ordered to be returned to the House of Representatives. By order: 65

(Signed) J. WOODRUFF, Clerk of Senate.

[*A. A., Vol. 15, pp. 79—83.*

No. 388. AN ACT TO REPEAL SECTION FOUR (4) OF AN ACT ENTITLED, "AN ACT TO RELIEVE THE STATE OF SOUTH CAROLINA OF ALL LIABILITY FOR ITS GUARANTY OF THE BONDS OF THE BLUE RIDGE RAILROAD COMPANY, BY PROVIDING FOR THE SECURING AND DESTRUCTION OF THE SAME," APPROVED MARCH 2, 1872; AND TO REPEAL SO MUCH OF SECTION 72, CHAPTER XII., TITLE III., OF THE GENERAL STATUTES, AS AUTHORIZES THE STATE AUDITOR TO GIVE NOTICE ANNUALLY TO EACH COUNTY AUDITOR OF THE RATES PER CENTUM
66 TO BE LEVIED FOR VARIOUS STATE PURPOSES.

SECTION 1. *Be it enacted* by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Section four (4) of an Act entitled, "An Act to relieve the State of South Carolina of all liability for its guaranty of the bonds of the bonds of the Blue Ridge Railroad Company, by providing for the securing and destruction of the same," approved March 2, 1872,
67 providing for an annual tax of three mills on the dollar, for the redemption of the revenue bond scrip, be and the same is hereby repealed.

SEC. 2. That so much of Section seventy-two (72), Chapter XII., Title III., as directs that the State Auditor shall, on or before November fifteenth, annually, give notice to each County Auditor of the rates per centum authorized by law to be levied for various State purposes, be and the same is hereby repealed, and the Comptroller General is hereby forbidden to levy any tax for any purpose whatever, unless expressly hereafter authorized so to do by statute.
68 Approved October 22, 1873.

[*A. A. Vol. 15, pp. 479, 480.*

No. 424. AN ACT TO RAISE SUPPLIES FOR THE FISCAL YEAR COMMENCING NOVEMBER 1, 1873, AND TO ALTER AND AMEND THE LAW IN RELATION TO THE COLLECTION OF TAXES.

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69 SECTION 10. That so much of Section 72, of Chapter XII., of Title II., of Part I., of the General Statutes, as directs the

State Auditor, on or before the 15th of November, annually, to give notice to each County Auditor of the rate per centum authorized by law to be levied for various State purposes, be and the same is hereby repealed; and the County Auditors and County Treasurers of this State are hereby required, without further notice, to proceed, on and after January 1, 1874, under the supervision of the Comptroller General, to the collection of the taxes herein levied, in the manner prescribed by law; and they are hereby forbidden to collect, or cause to be collected, any other tax whatever, unless hereafter expressly authorized so to do.

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Approved December 22, 1873.

[*A. A., Vol. 15, pp. 516, 517.*